



Public Notice

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Number: 200475434

Date: October 12, 2004

Comments Due: November 1, 2004

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Buckhorn Valley (BHV) Pond No. 1 project, which would result in impacts to approximately 0.376 acre of waters of the United States (U.S.), including wetlands, adjacent to McHatten and Alkali Creeks. Additionally, the Corps is evaluating a related project, pursuant to 33 CFR 325.1 (d)(2), also proposed at the Buckhorn Valley Subdivision for the development of BHV Pond No. 2. This project would temporarily impact waters of the U.S. through an approximate 30-foot crossing of Alkali Creek by a pumpback delivery utility line. This notice is to inform interested parties of the proposed activities and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Mr. Dave Garton
Roark Partners
Post Office Box 480
Gypsum, Colorado 81637
970-524-5055

AGENT: Claffey Ecological Consulting, Incorporated
Mr. Michael Claffey
1371 17 Road
Fruita, Colorado 81521

LOCATION: The project site is located approximately 3 miles southeast of the Town of Gypsum in Section 11, Township 5 South, Range 85 West, Eagle County, Colorado, and can be seen on the Gypsum USGS Topographic Quadrangle.

PROJECT DESCRIPTION: Regarding BHV Pond 1, the applicant is proposing to construct this 5.1 acre-surface area water storage reservoir in mostly upland areas. This project would discharge approximately 5000 cubic yards (yds³) of clean fill, permanently impact 0.376 acre of wetlands, including a spring with tributary connection to McHatten Creek. The total excavation for this reservoir exceeds 250,000 yds³ and would store 53 acre feet (ac.ft.) from existing irrigation diversions at Alkali Creek and through a pipeline from the existing Eagle River Pumpback System. Stored water would be used to supply the irrigation needs of the Buckhorn Valley Subdivision and service the Town of Gypsum by way of delivery through outfall back to the Eagle River. The applicant states, that to meet dam safety regulations, the reservoir dam must be approximately 200 feet wide, sloping gradually, as designed. A PVC liner would seal the reservoir bottom to prevent water loss. Water from the existing spring and adjacent wetland complex would be piped under the pond liner to provide the hydrology source for the proposed compensatory wetland mitigation site.

The applicant is also proposing to construct an additional water storage reservoir, BHV Pond 2 entirely in upland areas with a 30-foot delivery line crossing of Alkali Creek. The creek crossing is the only impact component of BHV

Pond 2 being considered under this permit application. This 4.7 acre-surface area reservoir completes the applicant's remaining 140 ac.ft. of water storage required by the Town of Gypsum for annexation and subdivision approval purposes. The intake structure for this reservoir is an existing irrigation diversion located at the Eagle River within the N1/2 of Section 1, Township 5 South, Range 85 West. Based on the available information, the overall project purposes are to store water for irrigation of the Buckhorn Valley Subdivision as required by the Town of Gypsum. The attached drawings provide additional project details.

Please note that BHV Ponds 1 and 2, and their related infrastructures, have independent utility and are not connected to the proposed and neighboring Saddle Ridge Golf Club.

ADDITIONAL INFORMATION:

Environmental Setting. The project area is characterized by Semi-desert Shrubland and Pinyon/Juniper Woodlands. The Shrublands occupy the valley bottom or lower elevations and has been historically cleared for agriculture and is dominated by introduced grasses. The Woodland system is restricted to the ridges. The limited riparian and wetland plant communities are associated with Alkali and McHatten Creeks. The wetlands along Alkali Creek are comprised of a narrow band of emergent riverine vegetation. Existing wetlands proximal to McHatten Creek or located within this arroyo are actually slope wetlands and not riverine.

This area is currently under development for future residential subdivisions, golf courses and business connected to the Eagle County Regional Airport. The continued conveyance of water from McHatten Creek, a heavily impacted ephemeral channel by historic ranching and irrigation practices, would be maintained by a proposed re-aligned channel located at the west edge of the proposed BHV Pond 1. Normal flows through Alkali Creek would not be impacted.

Alternatives. The applicant has provided information concerning project alternatives. Regarding the applicant's proposed project purpose; 1) construction of an off-channel State jurisdictional dam, 2) smaller and/or re-configured designs and consideration of an Alkali Creek, and 3) an on-channel State jurisdictional dam were considerations presented to the Corps, but dismissed by the applicant for property boundary, state regulatory, excessive sedimentation, cost and dam safety concerns. Additional information concerning project alternatives may be available from the applicant or their agent.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to offset impacts by creating 0.57 acre of wetlands (a 1.5:1 ratio of creation to impact) at a mitigation site adjacent to Alkali Creek and northwest of BHV Pond 1. The mitigation proposal would utilize existing spring water as a source of hydrology and salvage impacted wetland soils and plant communities to the mitigation site.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the CDPHE, is required for this project. The applicant has indicated they have applied for certification. The Town of Gypsum approved PUD and annexation for the Buckhorn Valley Subdivision on August 8, 2000. Associated water rights for water storage were approved by the Colorado Division of Water Resources, District 5, on January 19, 2004.

HISTORIC PROPERTIES: Based on the available information, cultural resources are not within the Corps' project area of potential effect but may be within the applicant's overall planned development. The Corps has requested consultation confirmation with the State Historic Preservation Officer under Section 106 of the National Preservation Act.

ENDANGERED SPECIES: The proposed activity may affect Federally-listed endangered or threatened species or their respective habitat. The Corps has initiated consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200475434, must be submitted to the office listed below on or before November 1, 2004:

Mark Gilfillan, Regulatory Biologist/Project Manager
US Army Corps of Engineers, Sacramento District
Colorado/Gunnison Basin Regulatory Office
400 Rood Avenue, Room 142
Grand Junction, Colorado 81501-2563
Email: Mark.A.Gilfillan@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' Project Manager, Mr. Gilfillan, at 970-243-1199, extension 15, or by electronic mail at Mark.A.Gilfillan@usace.army.mil.

Attachments: 10 drawings